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No. 477

# In the Supreme Court of the United States

OCTOBER TERM, 1958

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS OF AMERICA, INC., AFL-CIO AND INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, GREAT LAKES DISTRICT LOCAL NO. 47, PETITIONERS

*v.*

ROSS M. MADDEN, REGIONAL DIRECTOR OF THIRTEENTH REGION OF THE NATIONAL LABOR RELATIONS BOARD, FOR AND ON BEHALF OF THE NATIONAL LABOR RELATIONS BOARD

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT*

## BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

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### OPINIONS BELOW

The opinion of the district court (Pet. 36–39) is not yet reported. The opinion of the court of appeals (Pet. 40–43) is not yet reported.

### JURISDICTION

The judgment of the court of appeals was entered on September 26, 1958. The petition for a writ of certiorari was filed on October 28, 1958. The jurisdic-

tion of this Court is invoked under 28 U. S. C. 1254 (1).

## QUESTIONS PRESENTED

1. Whether, in a proceeding for an interlocutory injunction under Section 10 (l) of the National Labor Relations Act, as amended, a district court must determine on the merits whether a respondent union is a "labor organization" as defined in the Act, or whether it need only find "reasonable cause" to believe that this is so.

2. Whether, in the context of this case, the court below properly held that there was "reasonable cause" to believe that petitioners are "labor organizations" as defined in the Act.

## STATUTE INVOLVED

The pertinent provisions of the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C. Sec. 151, *et seq.*), are set forth in Appendix A to the Petition, pp. 31–35.

## STATEMENT

### A. PROCEEDINGS IN THE DISTRICT COURT

Petitioners challenge the propriety of an interlocutory injunction issued by the United States District Court for the Northern District of Illinois, Eastern Division, on June 17, 1958, and affirmed by the court below on September 26, 1958. The interlocutory injunction was issued by the district court pursuant to a petition for such relief filed by respondent Regional Director of the Board under Section 10 (l) of the National Labor Relations Act, as amended (29

U. S. C. 160 (l).[1] The Section 10 (l) proceeding had been instituted to enjoin picketing and allied activities by petitioners which were alleged to violate the proscription against secondary boycotts contained in Section 8 (b) (4) (A) of the Act.

Briefly, the uncontroverted facts on which the injunction order of the district court was predicated are as follows:

To compel foreign ships navigating in the Great Lakes to employ members of petitioners as pilots, petitioners picketed docks, piers and other waterfront premises along the Great Lakes, including such premises at Chicago, Illinois, and Milwaukee, Wisconsin, and induced International Brotherhood of Longshoremen, AFL–CIO, and its Local 19 to instruct their members employed by stevedoring companies on the waterfront not to handle cargo transported by, or to be transported by, said foreign ships (R. 5–6, 13–14, 16).[2] As a result, there was a substantial tie-up of shipping and a refusal to move freight at Great Lakes ports, which at Chicago alone involved freight valued at about $8,000,000 (R. 7).

The Regional Director's application for injunctive relief was filed with the district court on May 1, 1958,

[1] This section authorizes the Board's Regional Director, whenever he "has reasonable cause to believe" that charges alleging a violation of Section 8 (b) (4) of the Act are true, to apply to the appropriate federal district court "for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter."

[2] References designated "R" are to the Appendix to petitioners' brief in the court below.

and, pending a hearing thereon, a temporary restraining order was obtained (R. 2–9). Petitioner unions filed motions to dismiss the petition, alleging that the court lacked jurisdiction to grant the relief requested because they were not, contrary to the allegations of the petition, labor organizations within the meaning of Sections 2 (5) and 8 (b) (4) of the Act (R. 9–10). They contended that they admit to membership only supervisory employees, who, being excluded from the definition of "employee" contained in Section 2 (3) of the Act, were therefore exempt from the Act's provisions.[3] They submitted supporting affidavits, which recite that on the Great Lakes pilots are responsible for the navigation, docking and undocking of ships; they issue orders to the helmsman, with reference to steering, and to the engine-room by telegraph, with reference to speed, sometimes through the ship's officer, which, with few exceptions, are followed; and they have the authority to recommend removal of a helmsman (R. 10–11, 15–16, 24–30).

Upon the Unions' affidavits, the district court found that pilots on foreign ships operating in the Great Lakes give "directions as to the course [a ship] is to steer," "sometimes give commands directly to the helmsman, and if the helmsman is inefficient the pilot recommends to the captain that he be relieved and another seaman substituted. This advice is almost

[3] Section 8 (b) (4) only proscribes unfair labor practices by a "labor organization or its agents." Section 2 (5) defines "labor organization" as "any organization of any kind . . . in which *employees* participate and which exists for the purpose, in whole or in part, of dealing with employers" concerning employment conditions. (Emphasis added.)

always instantly followed" (Pet. 37). From this the district court further found that insofar as they "give orders and that these orders are obeyed," the duties of the "pilots in some ways fit" the definition of "supervisor" under the Act.[4] But, the court further found that "supervisory authority must be consistent, not sporadic and irregular," that the pilots only "on occasion give orders" and that the "primary function of a 'superior' is to give effective direction to those in his charge," whereas the "primary function of a pilot is to direct the movements of a ship, such orders as he gives are only incidental to accomplishing that objective" (Pet. 37–38). Accordingly, the district court concluded that pilots on foreign ships in the Great Lakes "give necessary technical advice and assistance" but are not "supervisors" within the meaning of the Act (Pet. 38–39). The district court denied the motion to dismiss, holding that there was "reasonable cause" to believe that the Unions did represent statutory employees, and thus were labor organizations within the Act (Pet. 39).

### B. PROCEEDINGS IN THE COURT OF APPEALS

Upon appeal, the court below affirmed the district court. The court concluded that, in a Section 10 (l)

[4] Section 2 (11) of the Act provides: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

proceeding, the district court was only required to determine that there was "reasonable cause" to believe that the Act had been violated, as alleged in the Regional Director's petition, and that this determination was conclusive on appeal, unless "clearly erroneous" within the meaning of Rule 52 of the Federal Rules of Civil Procedure (Pet. 42–43). Applying this standard of review, the court below ruled that the district court was amply justified in concluding on the record before it that there was "reasonable cause for believing [petitioners] are 'labor organizations' under the Act" (Pet. 43).

## ARGUMENT

The crux of petitioners' challenge to the ruling below is (Pet. 14–15, 17–26) that, in a Section 10 (l) proceeding for an interlocutory injunction, the district court must determine as a matter of law—and not merely test for reasonable cause to believe—whether the labor organization charged with having committed the unfair labor practice is a labor organization within the meaning of the Act. Such a determination is essential because, the argument runs, it goes to the jurisdiction of the district court to entertain the proceedings and to grant relief. This contention misreads the language of Section 10 (l), misconceives the legislative purpose behind it, and is at odds with the uniform decisions of the court of appeals that have dealt with the matter.

I. Congress believed that the unfair labor practices proscribed by Section 8 (b) (4) gave, or tended to give, rise to such serious and unjustifiable interrup-

tions in commerce that their continuation, pending disposition by the Board of charges involving such unfair labor practices, would result in irreparable injury to the purposes of the Act.[5] To prevent such injury Congress provided for injunctive relief as prescribed in Section 10 (l). The relief thus provided is interlocutory to the final determination of the matter by the Board and terminates with the Board's final disposition of the unfair labor practices charges.[6] As is evident from a reading of Section 10 (l) as a whole, particularly in the light of the Congressional purpose behind it, the district court is empowered to grant such temporary injunction upon finding that there is "reasonable cause" to believe that Section 8 (b) (4) has been violated and that such relief would otherwise be "just and proper." The ultimate determination of the truth of the charges is reserved exclusively to the Board, subject to review by the court of appeals pursuant to Section 10 (e) and (f) of the Act. *See N. L. R. B.* v. *Denver Bldg. Trades Council*, 341 U. S. 675, 681–682.

In concluding that the district court need only test for "reasonable cause," the court below was thus merely adhering to the language and scheme of the statute. Its conclusion, moreover, is consistent with that of every other court of appeals which has thus

[5] S. Dep. No. 105, 80th Cong., 1st Sess., pp. 8, 27, 1 Leg. Hist. of the Labor Management Relations Act, 1947 (G. P. O., 1948), pp. 414, 433.

[6] As a matter of fact the hearing on the unfair labor practices charges in the instant case is presently in progress before a Board trial examiner.

far had occasion to rule on the standard of proof in a 10 (l) proceeding. *Schauffler* v. *Highway Truck Drivers & Helpers*, 230 F. 2d 7, 9 (C. A. 3); *Douds* v. *Milk Drivers & Dairy Employees Union*, 248 F. 2d 534, 537 (C. A. 2); *American Federation of Television and Radio Artists* v. *Getreu*, 42 L. R. R. M. 2693, 2694 (C. A. 6, September 5, 1958; Stewart, J.); *Building & Construction Trades Council* v. *LeBaron*, 181 F. 2d 449, 450 (C. A. 9); see also, *LeBaron* v. *Los Angeles Building & Construction Trades Council*, 84 F. Supp. 629, 635–637 (S. D. Cal.).[7] In addition, the courts have uniformly rejected the contention that permitting the district courts to grant injunctive relief under the standard provided in Section 10 (l) presented any constitutional question. *Douds* v. *Local 1250*, 170 F. 2d 695, 698–699 (C. A. 2); *Printing Specialties Union* v. *LeBaron*, 171 F. 2d 331, 335 (C. A. 9); *Evans* v. *ITU*, 76 F. Supp. 881, 884–886 (S. D. Ind.).

2. In an effort to avoid this authority, petitioners (Pet. 14–15, 17–26) seek to draw a distinction between "jurisdictional" matters and other matters. In their view, the question whether the respondent in a 10 (l) proceeding is a "labor organization" is such a "jurisdictional" issue, requiring a "final" determination on

[7] Contrary to petitioners' assertion (Pet. 24–25), the decision of the court below is not in conflict with *Douds* v. *Local 50, etc.*, 224 F. 2d 49 (C. A. 2). The Second Circuit in that case specifically applied the "reasonable cause" standard (224 F. 2d at 50) and on the facts of that case ruled that "the district court was well justified in concluding that there is not reasonable cause to believe that the [union] has engaged in * * * an unfair labor practice" (224 F. 2d at 52).

the part of the district court and not merely a finding of "reasonable cause." There is no valid basis for making such a distinction.

(a) Petitioners' primary argument is that their status as labor organizations is "jurisdictional" in that Section 10 (l) gives district courts jurisdiction only over "labor organizations" (Pet. 3, 14–16). That contention is based simply on a misreading of the section. Section 10 (l) provides:

> Whenever it is charged that any *person* has engaged in an unfair labor practice within the meaning of [§ 8 (b) (4) (A), and the regional official has reasonable cause to believe that the charge is true, he may] * * * petition any district court * * * within any district where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein *such person* resides or transacts business, for appropriate injunctive relief * * *. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law: * * * *Provided further*, That for the purposes of this subsection district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, or (2) in any district in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit. * * * [Emphasis added.]

Petitioners read the second proviso applicable only to "labor organizations," as the exclusive basis of jurisdiction, which they then contend is not applicable to them because they are not "labor organizations." But whether petitioners are "labor organizations" or not, they are certainly "persons" within the meaning of the first part of the section, which expressly confers jurisdiction over injunction proceedings against "any person" charged with the unfair labor practice and places venue in the district, among others, where the unfair labor practice is alleged to have occurred—in this case, the Northern District of Illinois. Thus, if petitioners are "labor organizations," the case was properly brought in the district where they were engaged in protecting the interests of their employee members, while if they are not labor organizations, the action was properly brought in the district where the unfair labor practice is alleged to have occurred. The Northern District of Illinois satisfies both requirements. On the facts of this case, therefore, jurisdiction and venue would be the same under either provision. Hence it is immaterial, for jurisdictional purposes, whether petitioners are "labor organizations."[8]

[8] Section 2 (1) of the Act provides that the term "person" includes "one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees in bankruptcy, or receivers." Cf. *Teamsters Union* v. *N. Y., N. H. and Hartford Railroad Co.*, 350 U. S. 155, 160.

[9] For the same reason, no question is presented here whether the second proviso provides the exclusive venue for actions against "labor organizations." It may be noted, however, that the purpose of adding the second proviso to the otherwise complete jurisdictional provisions of Section 10 (1) was apparently simply to remove any procedural difficulties under state law—

(b) Alternatively, petitioners argue that their status as labor organizations is "jurisdictional" because the substantive prohibition of Section 8 (b) (4) (A) applies to them only if they are "labor organizations" (Pet. 17). It is true that that section makes it an unfair labor practice only for a "labor organization or its agents" to induce a secondary boycott, but the status of the person charged as a labor organization is simply an element of the proof of the unfair labor practice no different from the other substantive elements. The whole scheme and purpose of the Act militate against making any such distinction between the elements of the unfair labor practice. Congress' objective in the Act was to channel the adjudication of unfair labor practice questions into one expert body, the Board, whose determinations, in turn, would be subject to review only by the courts of appeals. See *Amalgamated Utility Workers* v. *Consolidated Edison Co.*, 309 U. S. 261, 265–266. In assigning a role to the district courts, in Section 10 (l) and the companion Section 10 (j), Congress did not intend to disrupt this specialized procedure for the adjudication of unfair labor practice questions, but merely to provide a means for holding matters temporarily in check until the Board procedure, which is necessarily time-consuming, could run its course. See S. Rep. No. 105, 80th Cong., 1st Sess., p. 8, in 1 Leg. Hist. of the Labor-Management Relations Act, 1947

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none of which are alleged in this suit—in suing unincorporated associations (see *Employees* v. *Westinghouse Corp.*, 348 U. S. 437, 445–446) and not to limit the choice of venue otherwise available.

(G. P. O., 1948), p. 414.[10] Accordingly, the district court was empowered to determine, not whether unfair labor practices had in fact been committed, but only whether there was "reasonable cause" to believe that this was so. See cases cited p. 8, *supra*.

Many issues enter into the question of whether an unfair labor practice within the meaning of Section 8 (b) (4) has been committed. Whether there is action by a labor organization within the meaning of the Act is but one of these issues, and since, as here, that issue very often involves both legal and factual considerations, the same amount of specialized knowledge

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[10] The principal debate over Section 10 (l) occurred over an amendment proposed by Senator Ball which would have permitted private parties rather than the Board to apply for injunctive relief. 2 Leg. Hist. 1347–1371. The author of Section 10 (l), Senator Morse (2 Leg. Hist. 1109), in successfully defending its provisions, succinctly stated the respective roles of the Board and the district courts under the statutory scheme as follows (2 Leg. Hist. 1360–1361):

> "I am confident, despite the high regard in which I hold the district judges of the United States, that they have neither the background, the desire, or the time, to become experts in these matters. It is one thing to grant to the district courts, upon application of the Board, an interim power to maintain the status quo pending resolution of the problem by the body which we have selected as the expert body to handle such problems. It is quite a different thing to do what this bill proposes, namely, to throw these matters for final decision into the laps of the approximately 250 district judges of the United States, some few of whom may have some knowledge of the field, but all of whom can certainly not pretend to be experts. I feel that it is placing upon them an unfair burden to ask that they gain the necessary experience which the amendment would require them to have."

See also: 2 Leg. Hist. 1350, 1352–1353, 1356–1357, 1364–1365.

and time is required to resolve it as is required with respect to the other issues presented. In the instant case the issue turns principally upon whether the pilots on foreign vessels involved here are "employees" within the meaning of the Act rather than "supervisors." To require the district court to determine that issue "on the merits," as petitioners suggest, would invade the exclusive function which Congress sought to reserve to the Board and the courts of appeals, no less than permitting it conclusively to decide for itself the question, for example, of whether a "hot cargo" clause is a defense to secondary boycott activity under Section 8 (b) (4). Cf. *Local 1976 v. National Labor Relations Board*, 357 U. S. 93.

(c) In any event, even if the labor organization issue were a "jurisdictional" matter, the Constitution, contrary to petitioners' suggestion, would not preclude Congress from empowering the district courts to grant temporary injunctive relief on the basis of a "probable," rather than a "conclusive," determination of jurisdiction. Courts of equity have traditionally entered temporary injunctions to maintain the status quo, pending a final determination of the questions presented, even where such questions were truly jurisdictional. Cf. *A. H. Bull Steamship Co.* v. *Marine Engineers' Beneficial Ass'n*, 250 F. 2d 332, 337 (C. A. 2). The role of a district court in a 10 (l) proceeding is no different, except that it preserves the status quo, not for itself, but so that the final determination can be made by the Board, subject to review by the courts of appeals. And, as the cases sustaining the constitutionality of Section 10 (l) make

clear (p. 8, *supra*), the fact that the process of adjudication is split between the district court and the Board, rather than being performed entirely by the district court, does not in itself raise any constitutional problem.

3. Petitioners' contention that the court below erred in concluding that there was even "reasonable cause" to believe that petitioners were labor organizations within the meaning of the Act is likewise without merit. If anything, indeed, it would seem clear that the petitioners are in fact such "labor organizations." Since a "labor organization" is defined in Section 2 (5) as "any organization of any kind * * * in which *employees* participate and which exists for the purpose, in whole or in part, of dealing with employers" concerning employment conditions, the only issue is whether petitioners' members, when working as pilots on foreign vessels in the Great Lakes, are such "employees."

(a) Petitioners contend that such pilots are "supervisors" within the meaning of Section 2 (11) and thus are excepted from the definition of "employees" in Section 2 (3) (Pet. 16–17). Section 2 (11) in pertinent part defines a supervisor as "any individual having authority, in the interest of the employer, * * * responsibly to direct [employees] * * *." It is well settled in the courts of appeals that the supervisory authority envisaged by Section 2 (11) relates to the direction of personnel not of equipment. *National Labor Relations Board* v. *Capital Transit Co.*, 221 F. 2d 864, 866–867 (C. A. D. C.); *National Labor Relations Board* v. *Esquire, Inc.*, 222 F. 2d 253, 258

(C. A. 7). In the instant case, the district court found, on the basis of affidavits submitted by petitioners, that "the pilots are employed by the foreign shipowners to give necessary technical advice and assistance"; that the "primary function of a pilot is to direct the movements of a ship"; and that to "accomplish this he sometimes gives commands to the helmsman" (Pet. 37–38). Moreover, as the district court found (Pet. 38), the contact which a pilot on a foreign vessel has with the helmsman is not a "continuing relationship" but only "slight and occasional." Except for the relatively brief time the helmsman takes orders from the pilot, even then subject to being countermanded by the captain, he works under the supervision of the officers of the ship, and whatever control the pilot may exercise over the helmsman is "sporadic and irregular." The exercise of such authority, which is merely incidental to keeping the ship on course, does not constitute the pilot a supervisor as defined in the Act. *National Labor Relations Board* v. *Capital Transit Co., supra; National Labor Relations Board* v. *Esquire, Inc., supra; Baltimore Transit Co.*, 92 N. L. R. B. 1260, 1263–1264; *F. M. Reeves & Sons, Inc.*, 114 N. L. R. B. 1243, 1244–1245; *Union Street Railway Co.*, 93 N. L. R. B. 782, 784–785; *National Labor Relations Board* v. *Leland-Gifford Co.*, 200 F. 2d 620, 625 (C. A. 1).

(b) Alternatively, petitioners contend that, even if the pilots are not "supervisors," they nevertheless are not statutory "employees" because the employment relations of employees on foreign vessels are not subject to the Act (Pet. 15–16).

Clearly, however, the status of the pilots as statutory "employees"—and hence of the petitioners as labor organizations—does not depend on whether particular aspects of the foreign vessel's employment relations can or will be regulated by the Board. The Act defines "employee" as including "*any* employee" and excepts from that definition only specific categories of employees (farm laborers, domestics, supervisors, etc.) and individuals employed by any "person who is not an employer as herein defined" (§ 2 (3)). In turn, there is excepted from the definition of "employer" only specific categories of employers (government instrumentalities, nonprofit hospitals, railroads, and, in certain capacities, labor organizations), none of which include foreign vessels (§ 2 (2)). Persons employed on foreign vessels in a nonsupervisory capacity are, therefore, clearly "employees" within the meaning of the Act.

Whether or not a particular activity of a foreign employer, his employees, or the labor organization representing them is subject to the Act depends, not upon their status under the Act as "employers," "employees," or "labor organizations," but rather upon considerations of international comity, practicality, and the presumed intent of Congress reflected in the Act as a whole. Clearly the application of such considerations depends upon the particular activity involved, its impact on the domestic economy, and its relationship to the purposes of the Act. Thus from the fact that one aspect of the employment relations of a foreign employer is exempted, because of such considerations, from regulation under the Act, it by

no means follows that other aspects, having a very different relationship to, and impact upon, the domestic economy, are also exempt (and, by the same token, subject to state regulation, see *Benz* v. *Compania Naviera Hidalgo,* 353 U. S. 138).

In this case, it is clear that the Board could properly exercise its powers to prevent the alleged secondary boycott whether or not it would, or could, take jurisdiction over the primary dispute between petitioners and the foreign vessels. Although the Board clearly has power to exercise full jurisdiction over the employment relations of a foreign employer permanently located within the United States, a special problem exists when a foreign ship is involved, since the ship is mobile and often only transitorily within the territorial limits of the United States. In this situation, the contact with the United States may be too tenuous to warrant the Board in regulating labor relations between the foreign shipowner and his employees, and, indeed, any order entered by the Board may be incapable of enforcement. Thus, the Board has ordinarily declined to entertain representation petitions involving such ships, and this Court in *Benz* v. *Compania Naviera Hidalgo,* 353 U. S. 138, held that the Act did not apply to a labor dispute "between a foreign employer and a foreign crew operating under an agreement made abroad under the laws of another nation," where the "only American connection was that the controversy erupted while the ship was transiently in a United States port and American labor unions participated in its picketing" (*Id.,* at 142).

The Act is inapplicable to such situations, however, not because the foreign owner of the vessel is not an "employer" within the meaning of the Act, but rather because the particular dispute is too transitory and unrelated to matters under the Act to warrant regulation by the Board.[11] For, where the foreign vessel has had a more permanent contact with the United States, and the labor dispute thereon has implicated American employers and their employees, the Board has exercised jurisdiction over the dispute and entered a remedial order. This was the situation in *Moore Dry Dock Co.*, 92 N. L. R. B. 547, where, while a foreign vessel was undergoing repair in the United States, a labor dispute involving its employees erupted into a secondary boycott affecting American neutral employers and their employees. And this Court in *Benz* specifically distinguished the situation in *Moore Dry Dock*, pointing out that in that case, unlike *Benz*, the case "was brought to the Board by an American employer, the owner of the drydock, claiming that the picketing by an American Sailors' Union was of the drydock and constituted a secondary boycott and

[11] Petitioners in their statement (Pet. 10–11) lay great emphasis on respondent's "concession" in the court below that the Board would not "conduct an election and require the foreign shipowners herein to bargain with Local 47" because of "the Board's lack of jurisdiction over the foreign ships * * *." But this statement must be read in the light of the considerations set forth above, and so read it is of little avail to petitioners.

therefore an unfair labor practice." 353 U. S. at 143, n. 5. See, also, *Norris Grain Co.* v. *Seafarers' International Union,* 232 Minn. 91, 46 N. W. 2d 94.

The instant case presents a situation similar to *Moore Dry Dock.* The dispute involving the foreign vessels has erupted into a secondary boycott which severely affects American secondary employers and their employees, and the American employers have come to the Board for relief. In these circumstances, there is no mere dispute involving foreign vessels and their employees, but a dispute which has spread to the American economy. There is no reason to suppose that Congress would have left the Board powerless to remedy such a situation merely because the dispute originated on foreign vessels. This conclusion is particularly compelling here, since the foreign vessels in question are not merely temporarily moored at coast piers, but are traveling down the Great Lakes, within the heart of the United States; and the pilot members of Local 47, whose work on these vessels is in dispute, are Americans, operating under licenses issued by the United States Coast Guard.

## CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted.

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